

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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PATRICK HEURUNG,

Case No. 17-CV-1173 (DWF/LIB)

Plaintiff,

v.

Amended Report and Recommendation

STATE OF MINNESOTA, et al.,

Defendants.

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Plaintiff Patrick Heurung did not pay the filing fee for this action, but instead applied for *in forma pauperis* (“IFP”) status. (See, [Docket No. 2]). In an Order dated May 2, 2017, this Court considered Plaintiff’s IFP application and denied it, concluding that Plaintiff is capable of paying the \$400.00 filing fee without undue hardship. (Order, [Docket No. 4]). The Court afforded Heurung 20 days to pay the normal \$400 filing fee and pursue his claims as a non-IFP litigant. (Id.). The Order expressly advised Plaintiff that his case would be subject to summary dismissal unless he paid the \$400 filing fee within the 20 days allowed. (Id.).

The deadline for satisfying the requirements of the May 2, 2017, Order has now expired. To date, however, Plaintiff has not paid the \$400 filing fee which was due by May 22, 2017, and he has not offered any explanation for his failure to pay the required fee. Thus, the Court finds that Plaintiff has failed to comply with the requirements set forth in the May 2, 2017, Order within the time allowed.

Based upon the Court’s express warning regarding the consequences if Plaintiff failed to timely pay the \$400 filing fee, the undersigned hereby recommends that Plaintiff be deemed to have abandoned this action, and that the action be dismissed without prejudice. Fed. R. Civ. P. 41(b) (stating that actions may be dismissed for failure to comply with court orders).

## CONCLUSION

A. Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS  
HEREBY RECOMMENDED THAT:

1. This action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

Dated: June 1, 2017

/s Leo I. Brisbois  
Leo I. Brisbois  
United States Magistrate Judge

## NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).

**Under Advisement Date:** This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.